

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA
BECKLEY DIVISION**

LOUINOT GABRIEL,

Plaintiff,

v.

Civil Action No.: 5:20-cv-00643

Judge:

**PAUL HAROLD TAYLOR, and
TAYLOR TRUCKING LLC, a South
Carolina company,**

Defendants.

COMPLAINT

For his Complaint against the Defendants, the Plaintiff alleges and states as follows:

PARTIES

1. Plaintiff Louinot Gabriel is a resident of Lauderdale Lakes, Florida, but avails himself to this Court pursuant to the principles set forth in *Morris v. Crown Equipment Corp.*, 633 S.E. 292 (W. Va. 2006). Plaintiff thereby renders himself a resident of the State of West Virginia for purposes of this civil action.

2. Defendant Taylor Trucking LLC is and was a South Carolina limited liability company with its principal place of business located in Columbia, South Carolina, and at all times relevant provided transportation services throughout West Virginia. Defendant Taylor Trucking LLC owns, leases, operates, controls, and maintains large commercial motor vehicles and tractor trailers, which are operated in interstate commerce in various states including the State of West Virginia. As such, Defendant Taylor Trucking LLC is, and at all times relevant herein was, subject to the jurisdiction of the Federal Motor Carrier Safety Administration (“FMCSA”) and the West Virginia Public Service Commission (“WVPSC”) and was responsible for compliance with all

applicable FMCSA and WVPSC rules and regulations, including West Virginia Highway Safety statutes, as well as commonly accepted and well-known commercial trucking safety standards.

3. Defendant Paul Harold Taylor is a resident of Moore, South Carolina, and was at all relevant times, upon information and belief, employed by Defendant Taylor Trucking LLC as a commercial truck driver. As a commercial truck driver for Defendant Taylor Trucking LLC, acting within the scope of his employment on April 13, 2020, Defendant Paul Harold Taylor was, at all times relevant hereto, subject to the jurisdiction of the Federal Motor Carrier Safety Administration (“FMCSA”) and the West Virginia Public Service Commission (“WVPSC”) and was responsible for compliance with all applicable FMCSA and WVPSC rules and regulations, including West Virginia Highway Safety statutes, as well as commonly accepted and well-known commercial trucking safety standards.

JURISDICTION AND VENUE

4. This Court has original jurisdiction over this civil matter pursuant to 28 U.S.C. § 1332 in that the amount in controversy exceeds \$75,000, exclusive of costs and interest, and involves citizens of different states.

5. Defendants availed themselves to the jurisdiction of this Court pursuant to W. Va. Code § 56-3-33 by doing, personally and through their agents, the following acts:

- a. Transacting business in the West Virginia;
- b. Contracting with Defendant Paul Harold Taylor and/or other drivers to supply services in West Virginia; and
- c. Causing tortious injury by an act or omission in West Virginia;

6. Venue is proper in this Court pursuant to 28 U.S.C. § 1931(a) in that a substantial portion of the events giving rise to the claims herein took place within the Southern District of West Virginia.

FACTS

7. Prior to the events giving rise to this cause of action, Defendant Taylor Trucking LLC hired Defendant Paul Harold Taylor as a commercial truck driver, to provide transportation services over interstate roadways/highways to various delivery points, including West Virginia. At no point prior to hiring Defendant Paul Harold Taylor did Defendant Taylor Trucking LLC conduct a reasonable investigation to determine his fitness for the task of driving a commercial motor vehicle.

8. On April 13, 2020, Mr. Gabriel, a licensed commercial truck driver, began his route from Florida to West Virginia, in his 2020 International Tractor, VIN 3HSDZAPR2LN641364, while transporting flowers for Manas Express Corporation.

9. During this route, at approximately 8:30 p.m. on April 13, 2020, Mr. Gabriel was traveling eastbound on Interstate 64 through Elton, Summers County, West Virginia.

10. At the same time, while acting as an agent, servant, and/or employee of Defendant Taylor Trucking LLC, defendant Paul Harold Taylor, who is eighty-four years of age, was driving a 2015 Prostar Single Unit Truck, VIN 3H6DHAPR7FN576875, owned by Defendant Taylor Trucking LLC, eastbound on Interstate 64, directly behind the plaintiff, Mr. Gabriel.

11. While driving the 2015 Prostar Single Unit Truck, defendant Paul Harold Taylor became distracted and began traveling at an unreasonable speed. Unaware of Mr. Gabriel's presence in front of him, Defendant Paul Harold Taylor continued recklessly traveling on Interstate 64 and violently struck Mr. Gabriel from behind, causing traumatic, serious and disabling injuries to Mr. Gabriel.

12. Defendant Paul Harold Taylor, by driving the 2015 Prostar Single Unit Truck while distracted, at an unreasonable speed, while following Mr. Gabriel's 2020 International Tractor too

closely without maintaining a proper lookout for other vehicles, acted in a negligent, careless, reckless, outrageous and unlawful manner, in violation of statutory and common laws and Federal Motor Carrier Safety Regulations, as well as commonly accepted and well-known commercial trucking safety standards.

13. Immediately after colliding with Mr. Gabriel from behind, Defendant Paul Harold Taylor crossed the centerline of the westbound lane, entered and crossed through the median into the eastbound lane, and came to rest on the shoulder of the eastbound lane. Mr. Gabriel continued forward for a distance, coming to rest on the shoulder of the westbound lane.

14. Following the violent collision, the West Virginia State Police - Hinton determined Defendant Paul Harold Taylor violated W. Va. Code § 17C-6-1 by failing to maintain control of his vehicle, and contributed to the collision insofar as he “drove too fast for conditions.”

15. At all relevant times, Mr. Gabriel operated his 2020 International Tractor lawfully and reasonably. Following the incident, Mr. Gabriel was not cited for any wrongdoing, nor was he found to have contributed in any way to the collision.

16. Because Defendant Taylor was acting in the scope of his employment on April 13, 2020, and was acting on behalf of his employer, Defendant Taylor Trucking LLC at the time the collision occurred, Defendant Taylor Trucking LLC is vicariously liable for his actions and conduct.

17. Defendant Taylor Trucking LLC, by its failure to conduct a reasonable investigation to determine Defendant Paul Harold Taylor’s fitness for the task of driving a commercial motor vehicle, acted in a negligent, careless, reckless, outrageous and unlawful manner, in violation of statutory and common laws of the State of West Virginia and Federal Motor Carrier Safety Regulations.

18. As a direct and proximate result of the Defendants' negligent, careless, reckless, and outrageous acts and omissions, Defendant Paul Harold Taylor struck Mr. Gabriel from behind causing traumatic, serious and disabling injuries to Mr. Gabriel, including but not limited to an acute PARS fracture and multiple herniated discs.

19. In addition to the damages described herein, Mr. Gabriel has further incurred and sustained the following past and future damages:

- a. physical pain and suffering;
- b. mental anguish and suffering;
- c. annoyance and inconvenience;
- d. emotional distress;
- e. loss of capacity to enjoy life;
- f. medical expenses past and future;
- g. lost wages;
- h. future physical impairment; and
- i. punitive damages.

**COUNT I
NEGLIGENCE
(Defendant Paul Harold Taylor)**

20. Plaintiffs incorporate by reference each of the above allegations as if fully set forth herein.

21. At all relevant times, Defendant Paul Harold Taylor owed a duty to exercise due care and to act reasonably so as not to injure others while operating the 2015 Prostar Single Unit Truck, and to follow applicable statutory and common laws of the State of West Virginia Laws

and the minimum standards established by the Federal Motor Carrier Safety Regulations, either directly or as adopted by West Virginia law, the violation of which constitutes negligence *per se*.

22. Defendant Paul Harold Taylor failed to act reasonably, breached his duty of care, and was negligent *per se* by violating statutory and common laws of the State of West Virginia and Federal Motor Carrier Safety Regulations in one or more of the following ways:

- a. Following too closely to the vehicle in front of him;
- b. Driving while distracted;
- c. Driving while ill or fatigued;
- d. Operating the the 2015 Prostar Single Unit Truck at an unreasonable speed;
- e. Failing to maintain a proper lookout for other vehicles;
- f. Failing to maintain proper control of the 2015 Prostar Single Unit Truck.

23. As a direct and proximate result of the negligence of Defendant Paul Harold Taylor, on April 13, 2020, he violently struck Mr. Gabriel from behind, and caused the traumatic, serious and disabling injuries and damages to Mr. Gabriel as referenced herein.

24. Defendant Taylor Trucking LLC is responsible and liable for Defendant Pau Harold Taylor's negligence on the principles of vicarious liability, *respondeat superior*, and/or agency insofar as Defendant Paul Harold Taylor was acting in the scope of his employment on April 13, 2020, and was acting on behalf of his employer, Defendant Taylor Trucking LLC, at the time the collision occurred.

COUNT II
NEGLIENT HIRING, SELECTION AND/OR RETENTION
(Defendant Taylor Trucking LLC)

25. Plaintiff incorporates by reference each of the above allegations as if fully set forth herein.

26. Defendant Taylor Trucking LLC was, by and through its employees, agents, and representatives, responsible for the hiring, selection, engagement, and/or retention of its drivers, including Defendant Paul Harold Taylor, to provide transportation services over interstate roadways/highways to various delivery points, including West Virginia.

27. At all relevant times, Defendant Taylor Trucking LLC owed a duty not to hire, select, engage, and/or retain drivers it knew or should have known posed a risk of harm or injury to others while providing transportation services in a commercial motor vehicle.

28. Taylor Trucking LLC breached its duty when it negligently hired, selected, engaged, and/or retained defendant Paul Harold Taylor as a commercial truck driver insofar as it failed to conduct a reasonable investigation to determine his fitness for the task of providing transportation services in a commercial motor vehicle.

29. As a direct and proximate result of Defendant Taylor Trucking's conduct of hiring, selecting, engaging and/or retaining Defendant Paul Harold Taylor, an incompetent commercial truck driver, on April 13, 2020, the Defendants' 2015 Prostar Single Unit Truck violently struck Mr. Gabriel from behind, and caused the traumatic, serious and disabling injuries and damages to Mr. Gabriel as referenced herein.

**COUNT III
NEGLIGENT TRAINING AND SUPERVISION
(Defendant Taylor Trucking LLC)**

30. Plaintiff incorporates by reference each of the above allegations as if fully set forth herein.

31. At all relevant times, Defendant Taylor Trucking LLC owed a duty to train and/or supervise its drivers on how to safely operate a commercial motor vehicle in compliance with federal and local laws and regulations.

32. Defendant Taylor Trucking LLC breached its duty when it negligently failed to exercise ordinary care to properly train and/or supervise Defendant Paul Harold Taylor on how to safely operate a commercial motor vehicle in compliance with federal and local laws and regulations, and to ensure his fitness for the task of driving a commercial motor vehicle.

33. As a direct and proximate result of Defendant Taylor Trucking LLC's failure to train and/or supervise Defendant Paul Harold Taylor on how to safely operate a commercial motor vehicle, on April 13, 2020, the Defendants' 2015 Prostar Single Unit Truck violently struck the Mr. Gabriel from behind, and caused the traumatic, serious and disabling injuries and damages to Mr. Gabriel as referenced herein.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff demands judgment against the Defendants for such an amount as will be determined by a jury according to the laws of the State of West Virginia, including compensatory damages, punitive damages for Defendants' intentional, fraudulent, malicious and/or reckless indifference to the safety of the plaintiffs, pre-judgment and post-judgment interest, reasonable costs, attorney's fees, and for such other relief as the Court may deem just and proper.

A JURY TRIAL IS DEMANDED.

LOUINOT GABRIEL,
By Counsel

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